PRISONS
AND
COMMON SENSE

THOMAS MOTT OSBORNE, A.B., L.H.D.

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PRISONS
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PRISONS AND COMMON SENSE

By THOMAS MOTT OSBORNE

After the bandit is caught, what is to be done with him? No one, perhaps, knows more about prisoners and their keeping than Mr. Osborne. In this volume he sketches his ideal of a rational conduct of prisons and describes the operation of the Mutual Welfare League at Auburn, Sing Sing and the Naval Prison at Portsmouth.

I BELIEVE IN GOD AND IN EVOLUTION

By WILLIAM W. KEEN, M.D.

Emeritus Professor of Surgery
Jefferson Medical College, Philadelphia

"'I BELIEVE IN GOD AND IN EVOLUTION' is most timely in its appearance and may, I hope, secure the wide circulation it deserves and ought to have. The evidence which it marshals is most convincingly arranged and must bring conviction to any open-minded and intelligent reader. We are all put under a great debt of obligation to you for presenting so lucid and persuasive a statement. . . . . ."—*Letter to Dr. Keen from* DR. FRANCIS R. ANGELL, President Yale University.

PRISONS AND COMMON SENSE

BY

THOMAS MOTT OSBORNE, A.B., L.H.D.

FORMER LIEUT.-COMMANDER, U.S.N.R.F.; CHAIRMAN, COMMISSION ON PRISON REFORM, NEW YORK STATE, 1913-'14; WARDEN OF SING SING (N. Y.) PRISON, 1915-'16; COMMANDING OFFICER, U. S. NAVAL PRISON, PORTSMOUTH, N. H., 1917-'20

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TO A FRIEND

WHOSE INTUITIVE INSIGHT INTO PRISON PROBLEMS, KEEN INTEREST IN PRISON REFORM, AND FIRM FAITH IN THE APPEAL TO LOYALTY, HAVE OFTEN PROVED MOST HELPFUL IN MOMENTS OF DISCOURAGEMENT,—

HELEN HARTLEY JENKINS

16926

PREFACE

For ten years, now, I have been hammering away at the endeavor to make understood a few simple propositions relating to prisons; but in spite of the wide-spread interest in prison reform, it is still very difficult for people to comprehend them. It is easy to undermine people's belief in brutality. It is by no means so easy to make them understand the need of something besides sentimental kindness; of building up the prisoner's character through responsibility and self-help. I begin to feel that it must be my own fault—that I somehow fail to make clear my meaning. In these papers I have tried once again. Now they are printing, I find myself wondering whether I have said it aright; yet the important points are not abstruse:

(1) Prisoners are human beings; for the most part remarkably like the rest of us.

(2) They can be clubbed into submission—with occasional outbreaks; but they cannot be reformed by that process.

(3) Neither can they be reformed by bribery in the shape of privileges:—special favors or tolerant treatment.

(4) They will not respond to sentimentality; they do not like gush.

(5) They appreciate a "square deal"—when they get one.

(6) There are not many of them mental defectives; on the contrary, the majority are embarrassingly clever.

(7) All these facts must be taken into consideration, if we want prisons which will protect society. Unless they are taken into consideration, our correctional institutions will continue to be what they have been in the past—costly schools of crime—monuments of wasted effort, of misguided service.

All forms of severity, all forms of kindly

mental and moral pauperizing, have been tried; and all have failed. It is now time that a system is formulated resting upon the genuine psychology of the prisoner.

Within the last ten years the prisoners of Auburn, Sing Sing and Portsmouth have showed us how the thing can be done. In spite of the imperfect conditions under which it has been tried, the *Mutual Welfare League* has proved itself. We do not need to see it under perfect conditions; when we studied geometry, we learned that only three points in the circumference are needed in order to draw a complete circle. To those not too prejudiced to understand, the meaning of the League has been perfectly clear. Here at last was a system based upon facts—not theory; upon human nature as it is—not as some one fancied it ought to be; upon an appeal to men's best instincts—not the worst; upon a recognition that God can still work

miracles in the human heart, if we do not obstruct the process with our small, stupid and material notions, our insatiable love of petty tyranny over the weak and helpless.

"Man, proud man,
Drest in a little brief authority,
Most ignorant of what he's most assured;
His glassy essence, like an angry ape,
Plays such fantastic tricks before high heaven
As make the angels weep."

The "little brief authority" is the rock upon which the good intentions of so many prison officials have struck. "No man is good enough to govern another man without that other man's consent," said Lincoln. It was true of negro slavery; it is equally true of prisons, above the doors of which might well be written that other saying of Lincoln:

"As I understand the spirit of our institutions, it is designed to promote the elevation of men. I am therefore hostile to anything that tends to their debasement."

THOMAS MOTT OSBORNE

ACKNOWLEDGMENT

The contents of this volume consist of two articles: the first published in the *Atlantic Monthly Magazine* (September, 1923), reprinted here with the editor's courteous permission; the second read before the American Prison Association at the Prison Congress in Boston, Mass., on September 14, 1923. There are slight changes in the wording and a few additions, in the effort to make more clear the points discussed.

PRISONS AND COMMON SENSE

I

A SURE FOUNDATION

WHEN the ingenious Mr. Boswell was not altogether sure of his ground, in some case in which he was interested—professionally or otherwise, he liked to submit the matter to his friend and mentor, Doctor Johnson, whose life he was already preparing to write. The great scholar, disclaiming expert knowledge, would proceed to a careful examination and analysis—going back to the very beginning of things to make sure there was no weak link in the chain of reasoning. The delighted Boswell, after expressing his fervent gratitude, would then file away the paper for use in his *"magnum opus"*—the future biography.

Many articles and books have recently

been published dealing with our prisons—some of them of considerable value; but there is great need to re-examine the foundations upon which our various theories of crime and punishment rest; for while much thought has been devoted to the question of how to build walls high enough and make bars strong enough to keep men temporarily in prison, we have devoted very little attention to the treatment necessary to enable them to come out permanently cured—inclined to be friends rather than enemies of their law-abiding fellow citizens.

One thing, however, is clear: we are beginning to understand that our prison system has been a failure; that not since capital punishment for minor crimes was abolished have we evolved any logical method of dealing with criminals. But we must also realize that more is needed to solve the problem than a brief spasm of

good intentions, a speech or two at a mass-meeting, a few more bills for the legislature to pass or reject. We must have an intelligent plan of prison management; faithful and intelligent officials to carry it out; with a steady and intelligent public opinion back of them.

Boswell writes: "I repeated a sentence of Lord Mansfield's speech, 'My Lords, severity is not the way to govern either boys or men.' 'Nay' (said Johnson), 'it is the way to *govern* them. I know not whether it be the way to *mend* them.'"

If only, like Boswell, we could refer our prison problem to a Johnson, with his keen appreciation of ethical values and extraordinary clarity of mind—that rare quality we persist in misnaming "common sense"! We can, however, adopt his method of examining his subject *ab initio*. Possibly in so doing we may find a series of more or less self-evident propositions

which will receive general assent, and thus make it easier to arrive at a correct conclusion.

(1) *Prisons exist for the protection of society; they have no other function.*

This is a proposition so very self-evident that discussion of it would be unnecessary, were it not a well-known and lamentable fact that very many of our prisons are used primarily as spoils in the game of politics. Wardens are often appointed not because they know anything of the art of handling men but because of their political services to the party in power, or because of some "pull" with a local boss. In one prison, with the history of which I happen to be somewhat familiar, the wardenship has never, within the memory of the oldest inhabitant, been anything but the prize of the political county leaders. In another prison there has been a succession of incompetent wardens, the list including a

plumber, a saloon-keeper, an ordinary city policeman and a race-track gambler. What wonder if the history of that particular institution has been a succession of scandals?

The Federal Government ought to set the States a good example; but soon after the Harding administration came into office the Attorney General of the United States dismissed an excellent warden of the Federal Penitentiary at Atlanta, in order to make room for the leader of one of the factions of the Republican Party in Oklahoma! It seemed that the rival faction's leader had secured some kind of a Federal job and trouble was brewing until the Atlanta appointment averted it. The most interesting point of the affair was that, in a public statement to the press, the Attorney General ingenuously took great credit to himself for preventing the disastrous consequences of a split in the

Republican party of Oklahoma! Apparently he was entirely unaware that he might be doing an unwise or discreditable act in using the Federal prisons as political spoils.

Until we select our wardens with as much intelligent care as we should use in choosing the head of a college, or at least of a factory, we can hardly expect much in the way of moral improvement among the inmates.

(2) *The old theory of a three-fold purpose of prison—retaliation, deterrence and reform—is incorrect.*

Revenge is a motive not only hateful in itself, but directly productive of hatred and wickedness. If we are to retaliate, it is essential that the retaliation shall be exactly just—"An eye for an eye, a tooth for a tooth"; but a moment's reflection will show that it is never possible to determine the exact amount of blame to be attached to

the criminal himself. How can we ascertain how much is due to inheritance, how much to early environment, how much to other matters over which the offender has had no control whatever? If we cannot ascertain these, how can we tell just how much retaliation the offender deserves? When a man does not get enough punishment, the result is bad; it encourages him to think that he can always escape with less than his deserts; and thus crime is encouraged. When a man gets too much punishment, the result is bad; it makes him bitter and revengeful; and thus crime is encouraged. Failure results in either case; and the community suffers.

Incidentally, it is curious how many who call themselves Christians believe in the doctrine of retaliation, which in the Sermon on the Mount is specifically set aside by the Founder of Christianity. And it is St. Paul, following in the footsteps of

the Master, who writes: "Recompense to no man evil for evil * * * Avenge not yourselves * * * for it is written, Vengeance is mine: I will repay, saith the Lord."

On the other hand, the treatment of prisoners on a basis of direct reform is foredoomed to failure. Neither honest men nor criminals will tolerate a bald proposition from anyone to alter their characters or habits; least of all if we attempt to gain such a change by a system of coercion—and all men in prison are coerced. It is not in human nature to submit to reform from without. Moreover, who are we that we should set ourselves up as examples to others? Do we manage our own common affairs with such perfect honesty and efficiency that we can wisely ask the crooks to pattern by us? We must consider that the criminals know far better than do honest, law-abid-

ing citizens the extent of our failures. Are all the men on our police forces honest? Be assured the crooks know which ones can be dealt with. Are prosecuting attorneys always selected for their high ethical qualities? If there are any weak spots in such officers, the crooks will find them. They know whether the courts can be influenced or circumvented—for even judges are human. And so with revenue officers and other officials engaged in operating our complicated social machinery; the crooks know all the weak spots. A retired burglar was once explaining to me how he obtained the money necessary to pay for his legal defense. "I got out on bail," said he, "and accepted an invitation from a couple of old pals of mine to go out to—(naming a state in the Middle West)—and pull off a job on a bank there. The three of us turned the trick all right, divided the money and my

quarter share was $15,000. With that I fought my case and got a light sentence!" "Four shares," said I, "I thought you said there were only three of you." My friend grinned. "Oh, the other fourth went to the sheriff!"

Members of the criminal fraternity have very little respect for organized society; they often allude to themselves as the "honest crooks"; and most of them look upon us outsiders much as does the Pirate King in Gilbert and Sullivan's delightful opera, when it is proposed that he abandon piracy and return to civilization. "No, Frederick, it cannot be. I don't think much of our profession, but, contrasted with respectability, it is comparatively honest."

Neither retaliation nor reform, as a practical purpose of prison, gets us anywhere. They have both been thoroughly tried, with the result of hopeless failure. They must be ruled out of consideration.

(3) *Deterrence is the real aim of prison.*

If retaliation and reform are thus set aside, we are left with deterrence as the proper aim of prison discipline; and this is, in fact, the only one of the three which can bear analysis. The real concern of society is not the past, but the future; and a prison system should be such as will most effectually prevent further misdeeds. As individuals, we all owe to the victims of a crime our sympathy and whatever reparation is in our power; yet to us, collectively, as an organized community, the deed itself is not the thing of vital importance. An act, once committed, is fixed in history; nothing can undo it. The treatment to be given the offender cannot alter the fact of his offense; but we can take measures to reduce the chances of similar acts in the future. We should banish the criminal, not in order to exact revenge nor directly to encourage reform, but to deter him and others from further illegal attacks upon society. After we have sent

him to prison—thus punishing him by deprivation of liberty and the brand of society's disapproval—it is the part of wisdom to employ such methods as may induce him to alter the direction of his energies; cause him to be more interested in construction than in destruction; make him willing and able to live an honest and useful life. Then not only will he, himself, be deterred from future crime, but he will influence others toward the right.

A young lad, who at the age of twenty-four had been ten years behind the bars—having been orginally sentenced to a juvenile institution at the age of nine—left Auburn Prison after having taken an active part in establishing a system of inmate responsibility there, in 1914. The opportunity given him in prison for unselfish work for others resulted in a determination to "go straight." He came out, secured an honest job; and then, to his dismay, found

his next younger brother had started on the same career as a pickpocket that had landed him in the reformatory and the prison. The elder brother's talk and example, which had previously prompted the younger to a life of crime, now turned him back. Both these brothers are leading honest and useful lives; and a still younger brother, the expenses of his education paid by the ex-convict, is soon to graduate from college.

A sensible prison system might be the most effective form of burglary insurance.

If deterrence is our aim, it follows logically that all sentences to prison should be indeterminate. Our present system is as absurd as if the doctor, on sending a patient to the hospital, should fix in advance just how long he should remain. The particular crime, which has resulted in the criminal being caught and punished, may or may not be a good index to his

character or his criminal efficiency. A man may have committed fifty serious crimes before he is caught on a minor one. There is nothing more topsy-turvy than a comparison of the characters and sentences of the inmates of a prison; if the sentences were drawn by lot, they could hardly be more absurdly inequitable; not so much in relation to the charges tried as in relation to the man's real character and exploits.

If we sent men to prison to remain there as long as necessary to secure the maximum of safety for society, it is obvious that some men should be held there for life, while others could safely be let out at once —they would never commit another crime. In these latter cases, however, the effect of a quick release upon other potential criminals must be considered. In all cases it is the deterrent effect which should govern.

How can the greatest deterrent effect be secured?

(4) *The old methods of severity must be abandoned.*

It should be considered that when a man is sent to prison, he is punished; the restriction of liberty and the stigma of the convicted felon are the severest penalties society can inflict. The brutal severity which has awaited men, after they were locked behind the walls, is not punishment, but torture. By this I do not mean alone the flogging, the starvation, the more obvious physical tortures which have been and, in many prisons, are still practiced; but others even more destructive of a prisoner's respect for society: the dreary monotony, the long hours of close confinement in small cells, the swarms of vermin, the system of silence, the repression of all natural instincts, the eternal espionage, the filthy food, the daily proximity to un-

natural vice, the hourly danger of insult and abuse, the vile language of keepers, the tyranny of intellectual inferiors, the indifference of wardens, the grievances unredressed, the sense of utter helplessness, the impossibility of being heard: the wonder is not that so many men have gone insane in prisons, but that so many have remained sane.

"Do you know how a man feels when he leaves a place of this kind?" said an Auburn prisoner to me, ten years ago; "I'll tell you how I felt at the end of my first term: I just hated everybody and everything, and I made up my mind I'd get even." It is safe to say that such are the feelings of ninety per cent. of prisoners, when they leave a prison dominated by the old methods of severity. Does this mean safety to society?

"The most pernicious infection," wrote Bacon, "next the plague, is the smell of the

jail, where prisoners have been long and close, and nastily kept." This is almost as true today as it was three hundred years ago; but the physical infection of the jails has not been so dangerous and destructive to society as the moral infection which has come from the unintelligent severity of our prisons. It has been proved, in various phases of human experience, that men cannot be tortured into a change of heart. Fear will keep many quiet for the time being; but were severity really effective, we should have no prison problem today, our prisons of the past would have been shining successes instead of tragic and mortifying failures.

Why do we hesitate to give a job to an ex-convict? Partly because we distrust a man who has been caught; but principally because we have no sort of confidence in the training he has received in prison.

"Gentlemen," cries the eloquent counsel

for the defense appealing to the jury, in Galsworthy's *Justice,* "men like the prisoner are destroyed daily under our law for want of that human insight which sees them as they are, patients, and not criminals. If the prisoner be found guilty, and treated as though he were a criminal type, he will, as all experience shows, in all probability become one. I beg you not to return a verdict that may thrust him back into a prison and brand him forever. * * * Imprison him as a criminal, and I affirm to you that he will be lost."

(5) *Sentimentality must be discarded.*

In many prisons there has been a flop from brutality to sentimentality; after too little freedom, too much. Some prison wardens, after trusting no prisoners at all, turn about and in the endeavor to be kindly trust too many; and trust the wrong ones in the wrong way. When prison officials select the "trusties" they almost invariably

fail to pick out good men; for reasons not hard to understand. Prisoners soon learn to become the most accomplished hypocrites, the cleverest liars, to be found anywhere; deception becomes the very breath of life. The stake for the prisoners is so large that every faculty is trained to a dissimulation against which no warden can guard himself successfully. This is why the "honor system" breaks down; it results in a demoralizing system of special privilege for the unworthy.

Of course the prison officials are usually not aware of this fact. I know of prisons where the head is a thoroughly conscientious official—although, unfortunately, entirely satisfied with his institution; the machine runs smoothly—there are no riots or other unseemly disturbances; the warden meets smiling faces everywhere and few men are punished; a number of privileges are granted by the administration

and enjoyed by the inmates; everything on the surface is serene. Why, then, is not this a well-run prison? Because under the surface one finds quite another picture. The trust placed in the prisoners is being secretly violated; the rules of the prison are constantly broken; the smiles are hypocritical; unnatural vice flourishes; the good discipline is deceptive—it is rotten at the heart. No prisoner trusts his neighbor—he is afraid of him, for "stool-pigeons" flourish. It is practically necessary for the authorities to have their spies out in all directions; for the "honor" of the prisoners is not really trusted—the whole thing is a solemn, hollow sham. In one of the prisons which a few years ago was widely advertised as a remarkably successful instance of the Honor System and quite the last word in "prison reform," the espionage was carried to such perfection that its very efficient warden openly

boasted to visitors that nothing ever happened inside the limits of his prison domain without his knowing it within fifteen minutes if he were at home; or immediately after his return, if he were absent.

The difference between a system of severity and a system of sentimentality is that one threatens punishment and the other offers reward—of selfish advantage. The warden makes in effect a sort of bargain with John Doe, convict, by which the warden agrees to give John Doe certain privileges, and expects a certain return. John is housed in a new cell-block or under more comfortable conditions in the old one, is sometimes allowed to work outside the walls; he converses with his fellow inmates, plays ball Saturday afternoons (and possibly on Sunday); and in return he must make of himself a "good prisoner"—a quiet and well-behaved in-

mate; thus saving much wear and tear on the warden's nerves.

In the minds of many, the reform of the prison system has been accomplished when a cold-hearted, brutal autocrat has thus been replaced by a kindly, benevolent autocrat. But, so far as the ultimate effect upon the prisoner is concerned, there is little to choose. The former says: "Do this, or I will punish you." The latter says: "Do this, and I will reward you." Both leave altogether out of sight the fact that when the man leaves the shelter of the prison walls there will be no warden either to threaten punishment or offer reward. Unless he has learned to do right on his own initiative, there is no security for society in the future. You cannot make good citizens through mental or moral pauperizing.

(6) *Prisons must be educational institutions.*

As criminals can neither be coerced nor bribed into a change of purpose, there is but one way left: they must be educated. We must provide a training which will make them, not good *prisoners,* but good *citizens;* a training which will fit them for the free life to which, sooner or later, they are to return. If men in prison were to remain there all their lives, it would be of comparatively small importance to society how they were treated. Of course, where there is injustice or cruelty, it reacts disastrously on the character of those who inflict it—(the bad effect of slavery upon the slave-driver is always more serious than the effect upon the slave); but aside from that there would be no danger to the community. The most important thing to bear in mind, in considering the treatment of prisoners, is the fact of their ultimate release. It is of the most vital importance

that they should be educated, not for the life inside, but for the life outside.

Not until we think of our prisons as in reality educational institutions shall we come within sight of a successful system; and by a successful system I mean, one that not only ensures a quiet, orderly, well-behaved prison, but has genuine life in it, as well; one that restores to society the largest number of intelligent, forceful, honest citizens.

When I was warden of Sing Sing Prison, some one said to me, disapprovingly: "I understand that you have pretty lively politics among the prisoners up here!" I said, "Yes, men differ in opinion here as elsewhere; and when they are given liberty to think and act there is more human nature to the square foot in a prison than in any other place I know." "But I have heard that politics here are not always clean. Is that so?" "Certainly" was

my reply; "politics in Sing Sing bear a strong family likeness to politics outside." Then, speaking seriously, I told of a young Hebrew prisoner whose time had expired. He came to the office to say good-bye and said to me—"I didn't want to go, Warden, without telling you what I think of this place; for I don't believe you know just what you are doing here." "I have some sort of notion," said I; "what's yours?" "Well, as I see it," he answered, "you've started the men discussing questions of right and wrong, from one end of the prison to the other."

It was quite true; and my duty, as warden, was not to sit idly by and let political discussion end in futility; but endeavor to bring to the test of practical ethics every question that arose. I welcomed the political discussions—they kept the brains of my charges busy; but I held the prison community to close responsi-

bility for the acts of its members; and when any man went astray, as human beings appear rather inclined to do both in and out of prison—the vital question was: What course would the community take regarding the offender? In the answer to that lay the test of the prison community and of our system. In dealing with their own problems, the prisoners were gaining the desired experience.

Thus the education of a prison should be not mere schooling—teaching the alphabet to illiterates or even correspondence courses for the more advanced, excellent in their way as both these are, but training for real life—the free life of an American community.

(7) *Prisoners must be trained in honest labor.*

There can hardly be difference of opinion on this proposition; but it is not alalways understood that the very worst form

of labor education is the "slave labor" in force in our prisons. When men are placed at work, usually without consulting their preferences or capacities, are held at work only by dread of punishment, and receive no pay—or very inadequate pay, there can be no educational value. On the contrary, men come to associate work with prison and so desire to escape it altogether, when free.

In many prisons the work done is of a sort that the men would never, under any circumstances, do outside. Running a sewing machine at break-neck speed to make cheap clothing for some prison contractor, with a dark cell and bread and water if he fail to complete his daily "task," is hardly the sort of labor that will turn an enterprising burglar into an honest workman. The thing is preposterous. Any one of us, after years of that sort of labor and "discipline," would find burglary

a most refreshing contrast. We should be inclined to wage war against society for the rest of our natural lives; and that is precisely what happens.

Work of vocational value should be the basis of labor in every prison. We should also pay a prisoner full wages for his production and should make him pay for everything he receives from the State—such as board, lodging, clothing, etc. If he has a family, he should contribute toward its support. The balance should be his to dispose of as he pleases; but no man should leave prison until he has enough cash to his credit to buy necessary clothing and supplies and to support him until he settles down to a steady job.

It is entirely possible to develop a healthy, natural system of prison labor which will be in full accord with both ethics and political economy. If we did this, our prisons might possibly become self-

supporting communities instead of institutions where we teach men to contract a loathing for honest work, at the yearly cost of many millions to the tax-payers.

But all attempts to solve the labor problem in prisons, like all attempts to solve the problem of discipline, are futile unless a firm foundation is laid under them. So long as men are coerced or bribed into good discipline, the discipline will be a sham; so long as they are driven to work, they will not work willingly nor efficiently.

(8) *Prison training must be based on citizenship.*

In some prison schools will be found a class in civics. That is very well—all knowledge is useful; but it has little relation to real training in citizenship. As every boy knows, the only way to learn to play base-ball is to play it. An attempt to make pitchers, catchers, batters and base-runners by studying the rules and

reading a history of the game would be so ridiculous that even penologists have not suggested it; even in prisons where it is permitted, they actually play ball instead of studying it. So with citizenship: to know how to be a good citizen—to do one's duty to the community and encourage one's fellow-citizens to do theirs; to claim one's own rights without infringing upon the rights of others; to learn by one's mistakes; to trust and not be discouraged when deceived; to be trusted and stand up under it—to learn how to do even a part of these and other necessary things, a man must actually do them. Fortunately, it is not impossible—even in prison.

At first thought it would seem as though this group of men was the last one to be trusted with any freedom of thought and action. They are wicked criminals and have been sent to prison; they should be forced to submit patiently to the bonds of

virtue which we put upon them—such is the general feeling.

Well, Doctor Johnson said that was the way to *govern* boys and men; but he knew not whether it was the way to *mend* them. Were he alive today and familiar with our prisons, he would have not even a shadow of doubt. It is no way to mend them; but mend them we must, if we are to stop the rising tide of crime which threatens to engulf us.

Fortunately we do not have to theorize about this matter. Experience has proved that a system of inmate responsibility—*"prison democracy"* it has been called—is not only possible, but has actually been tried and has produced most astonishing results in the way of temporary good conduct and permanent reform. The full history of the Mutual Welfare League is still to be written; but the experiences of the last ten years at Auburn and

Sing Sing Prisons and the U. S. Naval Prison at Portsmouth, N. H., are full of instruction for those who wish to learn. Unfortunately, the League no longer exists at Portsmouth; it has been crushed out of recognition at Auburn, and it was badly mutilated some years ago at Sing Sing—where, however, it still survives, having converted two wardens who took office as skeptics.

But what has been done once can be done again. A warden who is intelligent enough to be dissatisfied with his prison system and wise enough to plan for the future, can easily learn the facts; and while we need not hold with Mr. Gradgrind that facts alone are what are needed in this world, yet in prison affairs they are far safer than theories.

After the Mutual Welfare League had been in operation at the Portsmouth Naval

Prison for over two years, my Executive Officer left for a few months' sea duty; and in his place Lieutenant C., an officer of long experience in the service, reported for duty at the prison. During the first day he looked about; found upwards of 2000 prisoners, most of them living in barracks outside the prison—with no bolts or bars and no wall about the grounds; saw a number of prisoners go down to their work in the Navy Yard, accompanied by a few marine guards; saw the rest going about their duties at the prison without any guards at all; saw the working parties return and the guards march away to the marine barracks; saw the third-class prisoners entirely under the charge of their fellow prisoners of the first-class; saw, in short, an unguarded prison run by the prisoners.

At the end of his first day, Lieutenant C. came into my office looking pale and

disturbed. "Commander Osborne," he broke out, "I can't stay here." I looked up from my desk. "What's the trouble?" "I can't stay here," he repeated; "I'm scared to death. Why don't these men all run away? I would." "Now, don't get excited about it," said I; "sit down." He did so; and as he dropped into a chair, he fairly groaned. "I don't understand it."

"Well," said I, "Lieutenant, I will tell you something. Please don't give me away; for this is a secret. *I don't understand it either.* I've been trying to understand it for six years—ever since I got into this prison game; and I haven't succeeded yet. However, don't let it worry you; it is not necessary that either of us should understand it. We know, as a fact, that they do not run away; and experience proves that we can proceed with perfect security upon that fact. Now you may explain it any way you like, but I may as

well tell you that I sha'n't care a snap of my fingers for your theory; and my theories are of no particular value or interest to you or any one else. Not only that; I have not a single theory or idea about this prison game that I am not ready to alter or throw away the moment it bumps up against a fact. We are learning new facts every day here; because we are dealing with real, live human beings—the most interesting things in the world."

The Lieutenant seemed somewhat comforted; but as he glanced out of the window, the troubled look came again into his face. "But you haven't any wall here, or even a fence!"

"No," said I; "we haven't; and I'll tell you why. When those barracks were built, they had a beautiful plan all mapped out with a high and heavy steel fence which could be electrified and protected by barbed wire; and this was to go on the

water-side as well as the land-side and spoil that fine view, that does us all good to look at. I went to the Commandant and said: 'Admiral, for heaven's sake don't let them put up that monstrosity. If we have a fence that is hard to climb, of course my boys will all want to climb it. Put up a light wire screen that any fool can get over, and I'll see that they don't get over it.' So they put up that chicken-wire stuff that you see.

"Do you know what I have said several times at mass-meetings to these fellows here?" I continued. "I have told them: 'Of course you know and I know that it's dead easy to get away from this place. I should be ashamed of any one of you who couldn't escape from here.' But I always added: 'I should be ashamed of any one of you who did.' Do you know what is the number of escapes we have had here? Eight, out of over six thousand prisoners!

And only think how easy it is! And we have had none at all since our last marine guards went over-seas and the prisoner police have been on the job. More than that, Lieutenant—"

But all that is another story.

If more people had seen the Mutual Welfare League in operation at the Naval Prison during the years 1917-21, we might add another self-evident proposition to those already enumerated; but perhaps eight are enough for a beginning.

II
THE MUTUAL WELFARE LEAGUE

In the early summer of 1913, Governor William Sulzer of New York appointed, at my suggestion, a Commission on Prison Reform. It was composed of the following members: Edward A. Bates of Utica, Mrs. Hannah Blum of New York, Miss Madeleine Z. Doty of New York, Miss Mary Garrett Hay of New York, Dr. George W. Kirchwey—former Dean of the Columbia University Law School—of New York, Howard R. Mosher of Rochester, Hon. Thomas Mott Osborne of Auburn, George W. Perkins of New York, Hon. John B. Riley—Superintendent of Prisons—of Plattsburg, and Dr. E. Stagg Whitin of New York.

On the call of the Governor, the Commission held its first meeting at the State Capitol in Albany on June 21, 1913, and

organized by electing Mr. Osborne, Chairman, Doctor Kirchwey, Vice Chairman, and Doctor Whitin, Secretary.

In rendering a Preliminary Report to the Governor (no final report was ever made, as upon a change of governors the Commission ceased to exist), it was stated:

"Special investigations were conducted by two members of the Commission—Mr. Osborne in the Men's Prison at Auburn and Miss Doty in the Women's Prison at Auburn, with the view of ascertaining more especially the effect of the present methods of prison administration upon the minds and characters of the prisoners. In the course of these special investigations, Mr. Osborne spent a week as an ordinary prisoner in Auburn Prison, and Miss Doty, together with a trained investigator, Miss Elizabeth C. Watson, spent a period of four days under similar conditions in the Women's Prison."

Among the recommendations made by the Commission to the Governor, is the following:

"IX. That the so-called 'Honor System' be

applied as rapidly as possible to all the penal institutions of the State, together with a considerable and increasing measure of self-government."

At the time this report was made, the prisoners at Auburn, with the approval of the Superintendent of Prisons and the Warden, had already formed the Mutual Welfare League.

During my week's stay as a prisoner at Auburn, I worked at making baskets in what was known as the weave-shop, in company with Jack Murphy, a "second-timer" serving a sentence of "twenty years to life." By good fortune the officer in charge of this shop allowed his men to talk together, provided they did so quietly and without leaving their places of work; although the rule of silence was supposed to be rigidly enforced throughout the prison. So my working partner and I discussed many things, including the pos-

sibilities of prison reform. After our day's task was finished on Thursday afternoon, October 2, 1913, we stood at our work-table chatting in low tones together, and the conversation turned to the long and dreary prison Sundays. I said I felt sure the prison authorities would be willing to grant some sort of exercise or recreation on Sunday, if it were practicable. Then ensued the following conversation, as set forth in my prison journal:

"You can't ask the officers to give up their day off, and you don't think the men could be trusted by themselves, do you?"

"Why not?" says Jack.

I looked at him inquiringly.

"Why, look here, Tom!" In his eagerness Jack comes around to my side of our working table. "I know this place through and through. I know these men; I've studied 'em for years. And I tell you that the big majority of these fellows in here will be square with you, if you give 'em a chance. The trouble is, we ain't treated on the level. I could tell you of all sorts of frame-ups they give us.

Now, if you trust a man, he'll try and do what's right; sure he will. That is, most men will. Of course, there are a few that won't. There are some dirty curs—degenerates—that will make trouble, but there ain't so very many of those."

"Do you really believe, Jack, that the Superintendent and the Warden could trust you fellows out in the yard on Sunday afternoons in summer?"

"Sure they could," responds Jack, his face beginning to flush with pleasure at the thought. "And there could be a band concert, and we'd have a fine time. And it would be a good sight better for us than being locked in our cells all day. We'd have fewer fights on Monday, I know that."

"Yes, it would certainly be an improvement on spending the afternoon in your cells," I remarked. "Then in rainy weather you could march to the chapel and have some sort of lecture or debate. * * * But how about the discipline? Would you let everybody out into the yard? What about those bad actors who don't know how to behave? Won't they quarrel and fight and try to escape?"

"But don't you see, Tom, that they

couldn't do that without putting the whole thing on the bum, and depriving the rest of us of our privileges? You needn't be afraid we couldn't handle those fellows all right. Or why not let out only those men who have a good conduct bar? That's it," he continues, enthusiastically, warming up to the subject, "that's it, Tom, a Good Conduct League. And give the privilege of Sunday afternoons to the members of the League. I'll tell you, Tom! You know last year we got up an Anti-Swearing League here in this shop, and we had a penalty for every oath or dirty word. The forfeits were paid in matches. You know matches are pretty scarce here, don't you? Well, we had a grand success with that League. But this Good Conduct League would be a much bigger thing. It would be just great. And go! Sure it'll go." *

That night, in my cell, I thought much of Murphy's suggestion and it seemed to me that he had got hold of the clue for which we had all been groping; he had hit on the practical way to make prisoners

* "Within Prison Walls"—by Thomas Mott Osborne. Published by D. Appleton and Company.

feel responsibility. The next day we discussed the matter again, especially the necessity of having some officers of the League to aid in enforcing discipline. To this Jack objected. He said, referring to inmate officers, that it "would be too much like Elmira. I'm afraid the fellows wouldn't fall for it. You know they just hate those Elmira officers; they're nothing but stool-pigeons."

At this point my fifteen years' training as trustee of the George Junior Republic came to our aid and I showed Jack how, if the officers were elected by the men, instead of being appointed by the prison authorities, it would change their whole character. "They may turn out to be poor officers," I said; "dictatorial or weak, or incompetent—but they will not be stool-pigeons."

This was the beginning of the Mutual Welfare League. Within a month Murphy had secured interviews with the War-

den and the Superintendent of Prisons and gained their consent to the new movement. Then one Sunday morning at Chapel, I explained to the assembled prisoners what Murphy and I had said and done, and called for a show of hands whether they desired to undertake such an experiment. The vote was unanimous.

As a great deal of misinformation, not only from hostile but even from friendly sources, has been spread abroad about the Mutual Welfare League, it is my purpose in this paper to explain, as clearly as I can, just what the League is and what it is not. We may set down as the first point:

(1) *The League is a prison system not imposed arbitrarily by the prison authorities, but one which is desired and requested by the prisoners themselves.*

A warden is immediately put in a position of supreme advantage; for while he can hold the prison community to strict

accountability for the conduct of its individual members, he remains complete master of the situation. The League is not his system but that of the prisoners; he can, therefore, always insist upon the highest possible standards and accomplishment; and he should be ready to suspend the League whenever it fails to keep faith with him. In other words, if the League does not coöperate with the warden in securing better order and discipline in the prison, the warden is not justified in permitting its continuance.

On the other hand, experience has shown that where the League is not successful the fault lies in the warden, himself, and not in the system. It exacts a higher standard of character and capacity in the prison authorities than some of them are capable of reaching.

In the summer of 1919, at the U. S. Naval Prison at Portsmouth, N. H., I did not hesitate on one occasion to suspend the

League, discharging all its officials; but it was made quite clear at a prisoners' mass-meeting just why this extreme step was taken, and the very next morning a committee on re-organization was appointed. Within a month, after new elections had been held, matters were again running smoothly; nor did we have any trouble during the month's interregnum, while the Committee exercised the functions of the League.

To return to Auburn Prison:

A week after the vote of the prisoners in favor of a League, the first election was held. There being no machinery existing in the prison community to take the initiative, I had suggested to the Warden that the first step was for him to permit the election of a committee on organization. He approved of the idea, limiting such committee to fifty members. I sat down with the Warden's stenographer, a prisoner

who subsequently became the first secretary of the League, and we figured out a practicable plan. Every prisoner at Auburn belonged to some company, most of these being determined by the industries. Giving one committee-man to each company, two to those having over forty members and three to those having over eighty, it made a body of forty-nine.

Notices of the election were posted in each shop on December 24; and two days later the election was held. Under strong guard, a half-hour was given each company to discuss candidates and take the vote. Much interest was shown by the prisoners and there were some very close contests for places on the committee.

Here we come to the second point:

(2) *There must be no attempt on the part of a prison administration to control the result of the League elections.*

The moment a warden or his deputy begins to play politics, that moment trouble begins. The prison authorities cannot, of course, help having their preferences. They recognize one prisoner as a good man and worthy of confidence; they distrust another as a trouble-maker, who should not be put in a position of responsibility. But the Warden must hold himself, like the British sovereign, above all parties; looking only for good government from any and all who may be elected to office. The prisoners are naturally and properly jealous of interference in their free choice; for the moment it ceases to be free—the moment the Warden begins to eliminate candidates who seem to him undesirable, or to press forward those he thinks worthy—that moment the League ceases to be a prisoners' league and becomes a warden's league. The responsibility held by the prison community

loosens, the prisoners refuse to coöperate, the League ceases to function properly and its moral influence upon its members is gone.

I dwell upon this point because this is exactly where the League has broken down with wardens who failed to understand the importance of keeping outside the politics of the League. Many wardens fail to realize that most of the information that comes to them is tainted; they are at the mercy of sycophants and clever hypocrites. Having served as a prison head for five years, in two prisons, with over 8,500 prisoners, first and last under my charge, I speak from experience.

Two incidents which I recall are enlightening. At a League election in the Naval Prison, one of the candidates was a fellow of very bad character, so bad that I had to recommend him for an additional court-

martial and being found guilty he had been given an additional sentence. In this case, I felt called upon to interfere. At a mass meeting of the prisoners I gave frankly and in full my reasons for not wishing that man on the Board of Delegates; and the next day he was promptly elected. I may add that no harm came from his election and he soon resigned from the Board; but I never made that mistake again.

On the other hand, at Sing Sing, I had used my constitutional right to dismiss from office the Sergeant-at-arms, who had proved unsatisfactory. The Executive Committee met to select his successor. My attendance was requested and I was handed a list of proposed candidates, with the suggestion that I scratch off the names of those who were not acceptable to me. I scanned the list—there was only one of the seven I thought fit for the job. I handed

the list back. "Boys," said I, "we are on the wrong track. I am not going to cut off any one. If I do so, then any one you elect will be regarded as 'the warden's stool-pigeon.' There are some men on the list whom I do not trust; but I may be mistaken in them. Perhaps, if elected, they would rise to the occasion. You know these men better than I do. Elect anyone you feel we can trust; whoever he is, and no matter what I think about him, I shall give him my confidence and a fair show. If he doesn't make good, I shall 'can' him; then you will have to elect some one else." With that I left the meeting. The session of the Committee lasted two hours. At first, they elected one of the worst men on the list; then, after an impassioned speech by a young Italian prisoner serving a life sentence, they reconsidered their action and elected the best man on the list—one who held office for

many months and made a record for himself that eventually led to his pardon and release from prison.

At Auburn, on December 28, 1913, two days after the election, the Committee of forty-nine were marched to the Chapel and addressed by the Warden. "Men," he said briefly, "this is your meeting. Whom do you want for Chairman?" Some one made the motion that I should take the chair. It was carried; and the Warden and guards retired. It was the first time, so far as I know, that a considerable body of unguarded convicts was permitted a full and free discussion of their own affairs; but never was a meeting more orderly, interesting and businesslike.

We went straight to the heart of the matter: who should form the League? Should it be a selected body of well-conducted prisoners, as Jack Murphy and I

had conceived it; or should membership be the right of every man as he entered prison, which was the Warden's suggestion? One of the prisoners arose and said: "If the membership is to be only of those who have shown good behavior, who is to decide what that is? Who is to set the standards?"

I could make only one answer: "I suppose the prison authorities will."

With a snap of his jaw the man remarked: "We don't recognize them standards," and sat down.

At once I caught his point: There is no way by which arbitrary authority can judge accurately of basic character. As I have said, every warden is a more or less easy mark for the sycophant and the hypocrite. No matter how upright, intelligent and wise a man may be, when he holds high office of any sort it is impossible to guard himself against inaccurate infor-

mation. Even if a warden were a veritable Solomon, he could not get well acquainted with 1,400 men, or even forty. He has to depend upon his agents—the deputy, the guards, the foremen. It is through these agents that a prisoner's record is established in the warden's office; and that record forms no safe basis upon which to judge any man.

Wisely and accurately, the Auburn Committee adopted the democratic basis upon which alone the League could have succeeded. Every prisoner should join the League and be subject to its rules; forfeiting his membership if his conduct did not conform to what standards the League itself should determine.

We may set down as another of the fundamental propositions of the League:

(3) *Membership in the League must be common to all prisoners; any other*

basis is false and will not attain the desired object—universal responsibility.

Then the Auburn Committee took up the second question: What could the League do? After some discussion it was seen that it would be better first to organize the League and afterwards submit propositions to the authorities, one at a time. Obviously the first reform to bring about was to find some way to spend Sunday afternoons other than by confinement in the cells.

The third question was: What machinery should the League have, in order to carry on the activities granted to it? A sub-committee of twelve, with the Chairman a member ex-officio, was voted and its choice left to me. Knowing practically none of these men, I picked out those whose utterances had contributed most to the discussion. Then the guards

were called in and the Committee adjourned.

The four meetings of the sub-committee which followed were extremely interesting. Its members were businesslike, fertile in suggestion, keen in argument, good-tempered in decision. As fast as agreement was reached, I jotted down the substance, and later put the matter into clear and logical form. There was no elaborate and wordy constitution; only fourteen simple by-laws.

Every prisoner was eligible for membership in the *Mutual Welfare League,* which was the name adapted after much discussion. It was declared that "the object of the League shall be to promote in every way the true interests and welfare of the men confined in prison." The motto was: "Do good—Make Good." The colors were green and white—emblematic of Hope and Truth.

Adopting the same constituencies which had elected the committee on organization, the governing body of the League was a board of delegates of forty-nine, elected every six months. The board selected an executive committee of nine from among its members, to which was entrusted the administration of the League. The executive committee appointed a secretary of the League, and a sergeant-at-arms, who was empowered to add as many deputies or assistants as might be needed. The rest of the board of delegates was divided into eight grievance committees, of five each, which should hear and determine all complaints against members of the League.

This simple plan of organization was duly reported to the Committee of Forty-nine, approved by them and referred to a mass-meeting of the prisoners on January 11, 1914. It was unanimously adopted.

The first League election was held on January 15, 1914, and many of those on the Committee of organization were returned as members of the board of delegates. On Sunday, January 18, the newly elected representatives of their fellow prisoners, each with a bow of green and white ribbon pinned to his gray coat, marched into the Chapel, two by two, to the thunderous applause of their constituents. Raising their right hands they took the oath of office, read to them by the Warden, as follows:

"You solemnly promise that you will do all in your power to promote the true welfare of the men confined in Auburn Prison; that you will cheerfully obey and endeavor to have others obey the rules and regulations of the duly-constituted prison authorities, and that you will endeavor in every way to bring about friendly feeling, good conduct, and fair dealing among both officers and men to the end that each man, after serving the briefest possible term of imprisonment, may go forth with

renewed strength and courage to face the world again. All this you promise faithfully to endeavor. So help you God."

Even before the first formal meeting of the League the new spirit began to work. There occurred a fight on one of the galleries and two men were brought before a grievance committee on February 4.

The question immediately arose as to the kind of hearing that should be held by the Committee: Should it be a trial or an investigation? One of the guilty parties claimed the right to be represented by counsel; but it was quickly seen that this meant attorneys and cross-examinations and objections and all the rigamarole of the law. Many of the League members had already suffered from a surplus of legal procedure and they willingly listened to a suggestion that we start by throwing aside the whole simulacrum of a court. So

counsel was refused and the two accused men were examined as witnesses—and both lied like the traditional trooper; exactly as they had been accustomed to lie under the old system. But when other witnesses were brought in one by one, some of them, understanding the changed condition of things, told the truth. The case ended in both guilty parties making a clean breast of the whole matter, one of them being dismissed from the office of delegate, and both being suspended for the first general meeting of the League, which was scheduled for February 12. The latter punishment was afterwards remitted in view of the repentant attitude of the two men.

Here we may mark the fourth point:

(4) *Under the League better discipline is secured.*

The officials of the League have means

of getting at the truth of any matter which are closed to the prison authorities. Many prisoners can be persuaded to tell the truth to one another where they will not "squeal" and be the means of getting their ship-mates punished by the prison authorities. Under the League the inmates of the prison will willingly coöperate with the authorities in producing good discipline, for that is the price they must pay for the precious privileges granted to them through the League. Where there is no League the prisoner feels no responsibility for the conduct of others. It is the business of the warden and guards to run the prison as best they can; it is no concern of the prisoners. No individual prisoner suffers if another is punished; he gains nothing by general good discipline. There is no advantage in unselfishness and he cannot serve his fellow prisoners, except in ways which are forbidden by the rules

of the prison; rules which he naturally takes pleasure in breaking whenever he can safely do so.

I once heard an ex-prisoner, addressing a large meeting in New York, explain why it was easier to have good discipline under the League. He said:

"Take, for instance, the mess hall at Sing Sing. Under the old system they had forty guards along the walls at mealtime. If any fight happened in the middle of the hall none of the prisoners would try and stop it—it was the business of the guards to do that, and to arrest the fighters. But it was very dangerous business for the guards to go into the midst of the prisoners in the mess hall; for there was lots of crockery handy and we each had our favorite guard!

"Now, under the League, it's different. If there should be a fight the men around would stop it, for it would be bad for them—it would endanger League privileges. The Sergeant-at-Arms and his deputies could go right in—because they are prisoners like the rest. They can handle any such trouble without starting a riot; but the guards can't."

The reasons for the securing of better discipline under the League have been analyzed by a shrewd and experienced investigator:*

"The prison community contains its full measure of human strength and human weakness. * * * It is a whole world, * * * containing within itself some of the major problems of the outside world. There is, however, one basic difference. It must be remembered that this is an isolated community, a secluded community; that men cannot leave it at will, that what is done has an immediate influence upon the rest of the men. * * *

"There is a kind of equality in the prison world which is almost unique. * * * They are thus bound together as men in the free outside world are not. * * *

"The group is so small, and their interests are so closely knit together, that the activities of any member have a direct influence on the well-being of all the others. * * * The interests of the group are so bound up with the behavior of the individual that he is under constant pressure to conform. The

* Mr. Frank Tannenbaum in "Wall Shadows"—published by G. P. Putnam's Sons, 1922.

demand upon him to play the game honestly is almost irresistible. A man who stands out from the rest of the community by his unsocial behavior * * * comes into disrepute * * * and every one knows all about him. He is shunned, disliked, avoided. He * * * lacks the sympathetic support of the little group which in the world outside makes the criminal's life bearable. * * * The pressure for conformity in the interests of the group is thus intensified to a degree hardly imaginable. Men are caught in the vortex of a group that demands social conformity—conformity with the things and rules which are good and essential for this self-governing group. * * *

"In the older prison system the honor went to the man who was the most disobedient and troublesome prisoner. Under the democratic organization he is a nuisance to the prison group and treated as such. This fact tends to make the man who is the most insistent upon group approval—that is, the most sensitive and rebellious type under the old system —into the most social and serviceable type under democratic organization."

This is not only remarkably keen psychology, but an accurate statement of what

actually happened under the League, as a matter of history.

On February 12, 1914, not inappropriately on Lincoln's Birthday, the first meeting of the League took place. Willing hands had transformed the dreary old Chapel into a very decent assembly room, gay with colored paper, shields and trophies. The 1,400 prisoners, under their Sergeant-at-Arms and his deputies, marched in perfect order from their cells to the Chapel; listened to a programme of music and speeches; conversed between the numbers like any other audience; and then, having marched back without a whisper, they locked themselves into their cells. Such perfect discipline had never been seen before in Auburn Prison; and one of the guards was heard to remark: "Why in Hell can't they do that for us?"

For over three months the only privilege

granted to the League at Auburn, was that of spending Sunday afternoons in the Chapel; listening to a lecture, or musical recital, or looking at a moving picture. But it must be borne in mind that the important thing was not the lecture or moving picture; it was the fact that these meetings in the Chapel were unguarded, except for the officials of the League. The prison community was being given a chance to bear responsibility; the individual prisoners were proving their capacity to exercise self-restraint, to resist temptation.

No part of the League programme has been more generally misunderstood. The moving pictures at Sing Sing caused one of the metropolitan newspapers to dub that prison a "joy-palace;" entirely ignorant of the fact that the moving pictures were not an end in themselves—only the means to an end: the safeguarding of society.

For my own part, I am frank to say that I am very little interested in providing mere amusements for prisoners. If such privileges are utilized as a means of education—of training the prisoners in their responsibility toward the community, which is the essence of citizenship, then they become valuable; used as they commonly are in prison for mere entertainment, they are futile, if not mischievous, for they become a form of intellectual and moral pauperizing.

This then is the next point:

(5) *Under the League all privileges are utilized as means of obtaining responsibility for the good conduct of the prison community.*

In Auburn prison it was not long before we ran into our first serious snag. Cases of discipline were still being handled as usual by the prison officials—the Deputy

was still sending men to the dark cells on bread and water; and for the same offense, the League was punishing them through its grievance committees. Thus, offenders were getting double punishment; with the result that guilty prisoners were refusing to own up, witnesses were declining to testify and grievance committees were objecting to serve.

It was a crisis; and many of the prisoners felt that it would be better for the League to have nothing whatever to do with the discipline. Let the prison authorities handle the discipline and the prisoners enjoy the privileges! In other words, there was a natural shrinking from responsibility on the part of the men who had many of them lost the power of initiative. A mass-meeting of the prisoners was held, an interesting and at times really brilliant debate ensued, and at the end of three hours the vote showed an overwhelming majority in

favor of the acceptance of responsibility. The Warden's proposition was agreed to: that the League should handle all matters of discipline, except in the following cases: Assault upon an officer; deadly assault by one inmate upon another; refusal to work; strike; and attempt to escape.

A year later, at Sing Sing, a better method was employed. A regular court was instituted of five judges; the Executive Committee appointing one each month to serve for five months. The judges were not immediately eligible for reappointment. This court sat in all cases of breach of League or prison rules; but there was also instituted a warden's court in which sat the warden, the deputy (or principal keeper), and the doctor, which heard all cases appealed from the prisoners' court. Any prisoner, whether concerned in a case or not, could lodge an

appeal from the decision of the League judges. At first, a guard attended all sessions of the prisoners' court, so that no case in which the warden's authority was even indirectly concerned should go by default; but after awhile, we found this was not necessary—there were always enough prisoners keenly alive to the situation to make the necessary appeal.

These courts, holding open sessions during the hour of recreation or in the evening, when anyone could attend, were found to be of the greatest usefulness. As all the prison could know everything about a case, offenders could not pose successfully as martyrs. The League court expressed the public opinion of the prison almost invariably on the side of law and order; the pressure for good conduct became very strong indeed and there was no sympathy for the offender. If the judges

went wrong, things were easily adjusted on appeal.

It was also of great advantage for the Warden to hear all offenders in public. Again there could be no claim that a man did not receive a square deal from the prison authorities; for every one could understand exactly why an offender was punished and appreciate the logic that determined the nature of the sentence. In the sessions of the warden's court, the prisoner judges were always present to defend their own decisions, and this tended to keep them straight. The warden's court came to be the very keystone of the League system.

As another point, we may take this:

(6.) *The open courts of the League mean better conduct and fewer punishments.*

And they, incidentally, enable the war-

den to get a grasp on the actual condition of things in the prison such as he can in no other way.

As Memorial Day, 1914, approached much excitement prevailed in Auburn prison. The conduct of the prisoners had been excellent and the League's handling of the minor cases of discipline so satisfactory that the Warden was ready to grant a new privilege—a day's holiday in the yard. The Athletic Committee had made an elaborate programme of sports, which had received the Warden's approval. In the meantime, the cooler heads on the Executive Committee had realized that when the prisoners were given their liberty in the yard there would be real danger from the drug-users, for the "dope traffic" had been lively in the old prison. The Sergeant-at-Arms and his deputies went to work. A package of dope of the value

of eighty dollars was seized in one cell and thrown into the sewer. Inmates who were known to have means of procuring drugs were told that if the traffic continued, it would be necessary to discipline them in the open. Friendly warnings were given to some of the guards. By the time Memorial Day arrived, the prison was cleaned of drugs.

Even more remarkable was the clean-up a year later at Sing Sing, where the trouble was much more serious; for Sing Sing is the receiving prison for seventy-five per cent. of New York's State prisoners. The dope came in, concealed in the clothing of each new batch of prisoners; it came in, nailed under the truck which brought freight and express from the railroad; it came in, hidden about the coal barge; it was thrown over the wall; it was concealed in books, magazines, postcards and letters; it came in, fastened by surgeon's plaster

to the soles of the feet. The ingenuity of man was exhausted in finding new ways to overreach the authorities; and the brains of the authorities were taxed to the utmost without being able to cope with the evil. Of course the chief difficulty arose from the fact that some of the authorities, themselves, were engaged in the traffic.

The young Sergeant-at-Arms, stimulated by the example of the League at Auburn, set to work. He had, himself, been a dope peddler—as he very frankly confessed to me; but "now," said he to one of the guards to whom he was giving a friendly tip, "the Warden's on the level with us and we're going to be on the level with him." The guards took the hint; the spread of dope into the prison was blocked; newcomers were searched more successfully by the League officials and warned; a number of men went quietly to

the hospital for a cure; and Sing Sing was cleaned of drugs.

There is another prison problem, understood but seldom mentioned by wardens, which should no longer be ignored. "There are two things," the captain of a great battleship of our Navy once said to me; "two things which I can never handle properly until I can get the coöperation of my men: theft and sodomy." One of the inevitable results of a mass of men being thrown closely together, either in prison or the Navy, is the prevalence of unnatural vice; and if it is hard to control in the Navy it is impossible to exterminate in a prison. Here is a group of men—mostly young and by no means deficient in the natural passions of youth—but cut off from the natural means of satisfying them. Here also are thrown some degenerate creatures who have no virtue to lose and are willing to sell themselves, any time, for a few

groceries—the luxuries of a prison. The result is inevitable. Many of the prisoners have low standards to begin with, in personal morals as in other ethical matters; and we certainly cannot expect them to rise to higher levels merely because they are confined in prison.

It becomes evident, upon intelligent consideration of this very unpleasant subject, that there are at least three classes of offenders: First, the degenerates, whose dual nature has been a problem to the psychologist since the days of ancient Greece. These wretched creatures should not be placed in an ordinary prison; each one is a plague-spot—destructive of the morals of the community. They should be eliminated as carefully as the insane, and segregated until science has determined the wisest method of treatment for them.

Second: There are others, known sometimes as "wolves," who by nature or prac-

tice prefer unnatural to what we may call natural vice. These men, also, should not be left in an ordinary prison; they are likely to debauch the weaker natures with whom they come in contact. There are not many of these men but they are dangerous.

The third class is composed of those who have no liking for unnatural vice, who outside of prison would never be guilty of it, but who deprived of the accustomed outlet for their sexual passions will make use of the only one they can get. These men are not degenerates; they are simply ordinary men placed under unnatural conditions. They do not seek vice; they yield to it because they are not strong enough to exercise self-control. The problem with them is not at all the same as with the others; they are not naturally evil, they only need to be given higher moral standards and be exercised in self-control. This

can never be accomplished by punishment alone; the ordinary prison routine does them more harm than good; they need to have about them a strong public opinion of their fellow-prisoners which will condemn vice and encourage a manly mastery of the passions.

What attitude would the officials of the League take toward this difficult social problem? The question was soon answered at one of the early meetings of the Executive Committee, at which I was present. The subject came up; and the discussion that ensued showed the public opinion of the League, as expressed by the Committee to be as sound and healthy as could be desired. In fact, there seemed to be a vivid detestation of the thing, bred by close and nauseating contact with it, that was as unexpected as it was gratifying.

At first thought it would seem as though

the freedom of the League, by giving additional opportunities to the more dangerous men, would increase rather than diminish the evil. It did not prove so. Their sense of responsibility moved the decent members of the League to action; they kept close watch of those who were known offenders and took considerable pains to protect the younger prisoners who might be corrupted. In short, the evil was combatted much more effectively than it had ever been or ever could be under the old conditions. The same thing was true at Sing Sing; and even more true at the Portsmouth Naval Prison, when the League was in force there. It was a common saying at the latter place that we had "the cleanest ship in the Navy."

In this connection, the Executive Committee at Sing Sing inaugurated and carried through a very remarkable measure. An old basin just outside the walls was turned into a large swimming-pool, where

400 men were able daily to swim and dive in the cool waters of the Hudson, working off their superfluous energies. Then the newspaper scoffers cried: "Another amusement for those convicts in the joy-palace!" entirely oblivious of the fact that the main purpose of the swimming-pool was to head off unnatural vice and raise the moral standard of the prison community. Those who remember the bronzed and healthy prisoners of 1916 have not ceased to wonder at the gross stupidity which abolished that practical method of reducing immorality—the most difficult problem of the prison official.

So we may take as our next point:

(7.) *The League has proved to be the most effective agent for stopping the drug traffic and combatting unnatural vice.*

Memorial Day, 1914, in Auburn was one of glorious summer sunshine, and those who witnessed it will never forget the long

afternoon of good sport and pleasant fellowship in the prison yard. It was hard to think that those men who enjoyed it were the same human beings as the cowed, sullen, dangerous creatures of six months before.

After Memorial Day came the daily privilege of an hour's exercise and recreation after work; and other privileges, which need not be detailed, brought about by the excellent discipline of the League. One result was a great improvement in the quantity and quality of the work done by the prisoners. Reliable statistics of any sort in New York prisons are almost impossible to find and no effort was made, unfortunately, to compile those relating to the League. From the shoe-shop at Sing Sing, however, we have some accurate figures that show an average production, in the four years previous to the League,

of 49,800 pairs. The first year of the League the shop turned out 69,300 pairs.*

There can be no doubt that if the labor problem had been properly handled at Auburn or Sing Sing, and had the policy of the State Prison Department toward the League been consistent and encouraging, the hearty coöperation of the prisoners in their work for the State would have shown an enormous improvement in the character and amount of their labor. We cannot prove it by absolute accomplishment; but I have no hesitation in setting down as another point:

(8.) *The League, when properly handled by the prison authorities, can largely increase the output of work and improve its quality.*

* The old civilian foreman of the shoe-shop at Sing Sing, referring to the work of the League, recently said to a visitor: "I told the Warden only the other day that if a guard were ever put back in this shop he would have my resignation right off."

If time allowed, it would be well to describe in detail the working of the League in the Naval Prison at Portsmouth, for this has been in many ways its most interesting expression. A system which could change a heavily barred prison having 170 prisoners with 180 guards, to a large camp of 2,500 prisoners without guards, is not one to be disregarded by any true student of penology. Some day the story may be written; in the meantime I can only say that the fundamental principle of the League, learned at Auburn and emphasized at Sing Sing, was thoroughly and brilliantly vindicated at Portsmouth.

What is that principle? It is the same that underlies all true education, which forms the very foundation of the political and social institutions of our democratic republic—the principle of *individual responsibility for the common welfare*—

equality of opportunity, of service—in other words, *citizenship*.

To educate men, you must give them access to the stores of facts which have been gathered in the past, and you must place them in conditions which promote a desire to learn; but you cannot force men into knowledge or conduct. The tragedy of the prisons has been the hopeless effort to teach men honesty by breaking their wills, when they would not conform to tyrannous and unnatural rules of behavior. What, in the name of common sense, could we expect but failure?

The experience of the Mutual Welfare League has shown that when responsibility is honestly and fairly placed upon men—even criminals in prison—they will rise to it. That experience has also demonstrated another fact: that when a League prison is placed in charge of a warden too dull to understand the system or too prejudiced

to learn, it will, like any other system, fail; for no machinery will run by itself. We do not, if we can help it, drive behind a chauffeur who does not know enough to steer his car; we should not send a ship across the ocean under a captain who knew nothing of navigation; we ought not to entrust our prisons to wardens who do not understand even the first principles which underlie the training of men for citizenship.

I have set down some important points which determine what the Mutual Welfare League *is;* let me close by mentioning a few things which *it is not.*

(1) The League is not, and never was, a beautiful theory spun in the library by me or anyone else. It was built up slowly, one step at a time, by the prisoners in Auburn; and developed further by the prisoners of Sing Sing and Portsmouth;

no one realizing when it was started what would be the outcome.

(2) The League is not an experiment; it is a system resulting from a series of experiments. Perhaps it is hardly correct even to call it a system, for its details have varied in different prisons; it is, more properly speaking, the application of a great fundamental principle.

(3) The League is not a sentimental effort to make the lives of prisoners more comfortable, or render it more agreeable by privileges and amusements. On the contrary, it makes their lives in many respects harder; for it forces them up to higher standards and it takes strength and courage for men to break away from old habits of thought and action and acquire new ideals.

(4) The League is not "self-governing," in any accurate use of the word. Some years ago a well-known warden of

one of our large prisons, after impatiently listening to an account of the League, broke into speech: "Well, I wouldn't hand over the running of my prison to a lot of convicts." No one had ever suggested such a thing; he had completely and I may say—deliberately, misunderstood the matter.

(5) The League does not diminish the warden's authority, but broadens, deepens and increases it. But that is not all: it gives to the warden a chance to set before his charges certain rules of conduct with a clearness and force that can be secured in no other way. It is only fair to add, however, that this entails upon the warden an honest effort to live up to his own standards; for while prisoners will overlook failure on the part of a teacher of morality they are merciless if they suspect hypocrisy.

(6) The League cannot function apart

from the prison administration. The warden should himself be a member of the League to get its best results; the warden's court is the keystone of the whole system.

(7) The League does not require any unusual talents in the warden; but it does demand entire honesty of purpose and plain dealing. Any pretense or deception —any kind of mental or moral camouflage, —is fatal. A sense of humor is also highly desirable.

The prophet of old said:

"When the wicked man turneth away from the wickedness that he hath committed and doeth that which is lawful and right, he shall save his soul alive."

The emphasis of the old prison has been placed solely on the negative! "You are forbidden to do this"—"You must not do that"—"You must turn away from your wickedness"; And there it stopped.

The Mutual Welfare League system places the emphasis upon the affirmative —the constructive: "Do that which is lawful and right." But how can a man do that which is lawful and right unless he is given a chance to do it? If he is held responsible and is called upon to make laws for the community, he will then understand why it is necessary for a community to have laws made.

"What are you thinking about?" I once asked the Auburn Sergeant-at-Arms, when I came upon him in a brown study. He looked up. "Oh, I've done a lot of thinking since this League began; and I can see clearly now that society couldn't do anything with me but send me to prison."

No one claims for the League that it is infallible. How far it could protect society, if it were given a trial under entirely favorable conditions, no one knows; it has never been tried under such condi-

tions. At Auburn, politics and official stupidity have almost completely smothered it; at Sing Sing, politics of the foulest kind drove one warden from office, and it was a seriously curtailed League which the present warden inherited; but, crippled as it is, it has won his confidence and support. At Portsmouth, the League is gone; as soon as the present Naval administration came into power it hastened to undo what a former administration had created. So it is unfortunately true that a fully developed Mutual Welfare League can be seen nowhere at the present time.

But this does not mean that the League no longer exists. It is still alive in the hearts of the thousands of men who have felt its uplifting influence: those who are going straight; those who are not going straight because outside conditions have been too hard for them; even those who have gone back to crime without regrets but are some-

how dimly aware that they have had a fleeting glimpse of a better world from which they are shut out.

The League still exists, also, for those of us who have looked on from the side-lines; who have seen their unfortunate fellow-men struggling manfully with their problems; have seen them fail and grow discouraged; have seen them rise again to fight the battle and win; and who, as we have watched this phase of the eternal battle between good and evil for the soul of man, have felt our own hearts uplifted and our courage strengthened by noble examples of loyalty and good faith.

The Mutual Welfare League is not dead and can never die; the principle upon which it rests is eternal. For the sum of the whole matter is this:

"Ye have heard that it hath been said, an eye for an eye, and a tooth for a tooth; but I say unto you, That ye resist not evil * * * Do good to them that hate you."

So commanded the great Teacher; and in the same spirit His Disciple wrote:

"Condescend to men of low estate. Be not wise in your own conceits. Recompense to no man evil for evil. Provide things honest in the sight of all men. Be not overcome of evil, but overcome evil with good."

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